

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Gary K. Michelson, M.D.)	
Serial No.: (Cont. of 09/772,309))	(Group Art Unit: 3738)
Filed: September 23, 2003)	(Examiner: T. Barrett)
For: EXPANDABLE PUSH-IN ARCUATE)	
INTERBODY SPINAL FUSION IMPLANT)	
WITH TAPERED CONFIGURATION)	
DURING INSERTION)	

MS PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed concurrently with the filing of the above-referenced application.

Copies of the listed documents were previously submitted in prior Application No. 09/772,309, filed January 29, 2001, upon which applicant relies for the benefits provided in 35 U.S.C. § 120.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

Applicant also brings to the Examiner's attention the following U.S. co-pending applications and issued patent of Applicant; the claims and drawings of which were previously submitted in prior Application No. 09/772,309, filed January 29, 2001:

NOT FOR PUBLICATION			
Examiner Initial	Application Number	Filing/Issue Date	Publication/ Patent No.
	09/612,188	07JUL2000	N/A
	10/011,652	06NOV2001	WO01/56513
	09/574,858	19MAY2000	N/A
	09/551,964	31DEC2002	6,500,205

Applicant respectfully requests that the Examiner consider the documents listed above, indicate that they were considered by making appropriate notations in the appropriate column, and return a copy of this sheet to the Applicant.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.


Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 23, 2003

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Substitut for FORM PTO-1449		Attorn y D cket Number 101.0092-02000		Customer No. 22882	
INFORMATION DISCLOSURE CITATION IN AN APPLICATION		Applicant Gary K. Michelson, M.D.		Application Number (Cont. of 09/772,309)	
(Use several sheets if necessary) Sh et <u>1</u> of <u>3</u>		Filing Dat September 23, 2003		Group Art Unit (3738)	Examiner (T. Barrett)

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	3,875,595	04/1975	Froning			
	4,309,777	01/1982	Patil			
	4,349,921	09/1982	Kuntz			
	4,401,112	08/1983	Rezaian			
	4,501,269	02/1985	Bagby			
	4,553,273	11/1985	Wu			
	4,554,914	11/1985	Kapp et al.			
	4,636,217	01/1987	Ogilvie et al.			
	4,657,550	04/1987	Daher			
	4,714,469	12/1987	Kenna			
	4,759,769	07/1988	Hedman et al.			
	4,863,476	09/1989	Shepperd			
	4,932,975	06/1990	Main et al.			
	4,961,740	10/1990	Ray et al.			
	5,015,247	05/1991	Michelson			
	5,026,373	06/1991	Ray et al.			
	5,055,104	10/1991	Ray			
	5,059,193	10/1991	Kuslich			
	5,062,850	11/1991	MacMillan et al.			
	5,123,926	06/1992	Pisharodi			
	5,147,402	09/1992	Bohler et al.			
	5,171,278	12/1992	Pisharodi			
	5,192,327	03/1993	Brantigan			
	5,236,460	08/1993	Barber			
	5,258,031	11/1993	Salib et al.			
	5,263,953	11/1993	Bagby			
	5,290,312	03/1994	Kojimoto et al.			
	5,306,310	04/1994	Siebels			
	5,314,477	05/1994	Marnay			
	5,336,223	08/1994	Rogers			
	5,397,364	05/1995	Kozak et al.			
	5,439,684	08/1995	Prewett et al.			
	5,455,231	10/1995	Constantz et al.			
	5,464,439	11/1995	Gendler			

	5,507,813	04/1996	Dowd et al.			
	5,507,816	04/1996	Bullivant			
	5,522,899	06/1996	Michelson			
	5,549,679	08/1996	Kuslich			
	5,554,191	09/1996	Lahille et al.			
	5,593,409	01/1997	Michelson			
	5,609,635	03/1997	Michelson			
	5,653,763	08/1997	Errico et al.			
	5,665,122	09/1997	Kambin			
	5,693,100	12/1997	Pisharodi			
	5,702,391	12/1997	Lin			
	5,702,455	12/1997	Saggar			
	5,713,904	02/1998	Errico et al.			
	5,749,916	05/1998	Richelsoph			
	5,776,199	07/1998	Michelson			
	5,782,832	07/1998	Larsen et al.			
	5,785,710	07/1998	Michelson			
	5,800,550	09/1998	Sertich			
	5,865,848	02/1999	Baker			
	5,885,982	03/1999	Dolynchuk et al.			
	5,928,284	07/1999	Mehdizadeh			
	5,976,187	11/1999	Richelsoph			
	5,980,522	11/1999	Koros et al.			
	5,989,290	11/1999	Biedermann et al.			
	6,015,436	01/2000	Schonhoffer			
	6,019,792	02/2000	Cauthen			
	6,039,761	03/2000	Li et al.			
	6,045,579	04/2000	Hochshuler et al.			
	6,080,193	06/2000	Hochshuler et al.			
	6,087,555	07/2000	Dunstan et al.			
	6,093,207	07/2000	Pisharodi			
	6,102,950	08/2000	Vaccaro			
	6,117,174	09/2000	Nolan			
	6,126,689	10/2000	Brett			
	6,129,763	10/2000	Chauvin et al.			
	6,176,822	01/2001	Biedermann et al.			
	6,183,517	02/2001	Suddaby			
	6,190,414	02/2001	Young et al.			
	6,190,880	02/2001	Israel et al.			
	6,193,757	02/2001	Foley et al.			
	6,201,039	03/2001	Brown et al.			
	6,375,683	04/2002	Crozet et al.			
	6,419,705	07/2002	Erickson			
	6,436,140	08/2002	Liu et al.			
	6,443,989	09/2002	Jackson			
	6,491,724	12/2002	Ferree			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)
	2,151,481	03/1995	Canada			N/A
	2 717 068	09/1995	France			Yes
	2 771 282	05/1999	France			Abstract Only
	44 16 605 C1	06/1995	Germany			Yes
	1424826 A1	09/1988	Soviet Union			Yes
	WO 96/27348	09/1996	WIPO			Abstract Only
	WO 97/00054	12/1997	WIPO			N/A
	WO 98/34552	08/1998	WIPO			N/A
	WO 98/48739	11/1998	WIPO			N/A
	WO 99/42062	08/1999	WIPO			Abstract Only
	WO 00/35388	06/2000	WIPO			N/A
	WO 00/35389	06/2000	WIPO			N/A
	WO 00/12033	03/2000	WIPO			N/A
	WO 00/66045	11/2000	WIPO			N/A
	WO 00/74605	12/2000	WIPO			Abstract Only
	WO 00/78253	12/2000	WIPO			N/A

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

	European Search Report for Application EP 01 91 0418, dated April 17, 2003.

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.